

**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/YL-TYST/991**

<b><u>Applicant</u></b>	: Luen Shun Property Company Limited represented by Metro Planning and Development Company Limited
<b><u>Site</u></b>	: Lots 1402 (Part), 1487 (Part), 1488 S.A (Part), 1488 RP (Part) and 1489 (Part) in D.D. 119, Kung Um Road, Yuen Long, New Territories
<b><u>Site Area</u></b>	: 1,860 m <sup>2</sup> (about)
<b><u>Lease</u></b>	: Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	: Approved Tong Yan San Tsuen Outline Zoning Plan (OZP) No. S/YL-TYST/12
<b><u>Zoning</u></b>	: “Undetermined” (“U”)
<b><u>Application</u></b>	: Temporary Warehouse for Storage of Electronic Goods for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary warehouse for storage of electronic goods for a period of 3 years (**Plan A-1a**). According to the Notes of the OZP for “U” zone, all uses or development except those specified in the Notes require permission from the Town Planning Board (the Board). The Site is currently occupied by the applied use without valid planning permission (**Plans A-2, A-4a and A-4b**).
- 1.2 The Site was involved in three previous applications (No. A/YL-TYST/275, 277 and 771) for various temporary warehouse and/or open storage uses (**Plan A-1b**). The last application for proposed temporary warehouse and open storage of construction materials was approved with conditions for a period of 3 years by the Rural and New Town Planning Committee (the Committee) of the Board on 18.3.2016. All approval conditions under the last application had been complied with and the planning permission had lapsed on 19.3.2019. Details of the previous applications are summarised in paragraph 5 below and **Appendix II**. Compared with the last application (No. A/YL-TYST/771), the current application is submitted by a different applicant for a similar warehouse use without open

storage component and with a similar site layout and development parameters on a larger site.

1.3 According to the applicant, the warehouse is for storage of brand new electronic goods such as PC motherboards and CD-ROMs. No open storage, repairing, cleaning, dismantling, other workshop activities and handling/storage of cathode-ray tubes and electronic waste will be carried out at the Site. The applicant also undertakes that all existing trees/drainage facilities within the Site will be preserved/maintained at his own expense. Furthermore, no heavy goods vehicle exceeding 24 tonnes, including container tractor/trailer, will be allowed to enter the Site. Plans showing the vehicular access leading to the Site, site layout and tree preservation proposal submitted by the applicant are at **Drawings A-1 to A-3** respectively.

1.4 The major development parameters of the previously approved application and the current application are summarised as follows:

<b>Major Development Parameters</b>	<b>Previously Approved Application No. A/YL-TYST/771 (a)</b>	<b>Current Application No. A/YL-TYST/991 (b)</b>	<b>Difference (b)-(a)</b>
Applied Use	Proposed Temporary Warehouse and Open Storage of Construction Materials for a Period of 3 Years	Temporary Warehouse for Storage of Electronic Goods for a Period of 3 Years	Change in Stored Items and Omission of Open Storage
Site Area	About 1,728 m <sup>2</sup>	About 1,860 m <sup>2</sup>	+132 m <sup>2</sup> (+7.6%)
Total Floor Area (Non-domestic)	826 m <sup>2</sup>	851 m <sup>2</sup>	+25 m <sup>2</sup> (+3%)
No. and Height of Structures	8 <ul style="list-style-type: none"> <li>• three for warehouse (5.6 – 6.4m, 1 storey)</li> <li>• one for toilet (2.5m, 1 storey)</li> <li>• one for site office (4.8m, 2 storeys)</li> <li>• three for porch (5.6m, 1 storey)</li> </ul>	10 <ul style="list-style-type: none"> <li>• three for warehouse (7m, 1 storey)</li> <li>• one for toilet (3m, 1 storey)</li> <li>• three for site office (3-6m, 1-2 storey(s))</li> <li>• one for pump room (3m, 1 storey)</li> <li>• one for water tank (3m, 1 storey)</li> <li>• one for open shed (rain shelter) (7m, 1 storey)</li> </ul>	+2 (+25%)
No. of Parking Space	Nil		---
No. of Loading/Unloading Space	1 (for medium goods vehicle) (11 m x 3.5 m)		---

Operation Hours	9:00 a.m. to 6:00 p.m. Mondays to Saturdays, with no operation on Sundays and Public Holidays	---
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1.5 In support of the application, the applicant has submitted the following documents:

- (a) Application Form received on 2.10.2019 (Appendix I)
- (b) Supplementary Planning Statement (Appendix Ia)
- (c) Further Information (FI) dated 19.11.2019 clarifying the proposed operation (Appendix Ib)  
*[accepted and exempted from publication and recounting requirements]*

## 2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are mainly detailed in Section 3 of the Supplementary Planning Statement and the FI at **Appendices Ia** and **Ib** respectively. They can be summarised as follows:

- (a) The Site was the subject of a previous planning permission (No. A/YL-TYST/771). A new tenant has moved in and the current application is submitted to effect the proposal of the new tenant.
- (b) According to the Town Planning Board Guidelines for “Application for Open Storage and Port Back-up Uses” (TPB PG-No.13E), the Site falls within Category 1 areas and is considered suitable for open storage and port back-up uses. The proposed development would not generate queuing of traffic outside the Site.
- (c) The proposed development is in line with the planning intention of the “U” zone. A number of open storage yards and warehouses have been approved by the Board in the vicinity of the Site. Therefore, the development is compatible with the surrounding environment. Besides, there is a shortage of land for open storage purpose in Tong Yan San Tsuen.
- (d) There will be minimal traffic, environmental, visual and drainage impacts arising from the proposal. Adequate space for loading/unloading activities and manoeuvring of vehicles will be provided. The applicant undertakes to follow the environmental mitigation measures in the “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Use” (Code of Practice), where applicable.

## 3. Compliance with the “Owner’s Consent/Notification” Requirements

The applicant is not a “current land owner” but has complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting a notice of the application outside the Site and sending the notice to the Shap Pat Heung Rural Committee by registered post. Detailed information would be deposited at the meeting for Members’ inspection.

#### **4. Background**

The Site is currently not subject to planning enforcement action.

#### **5. Previous Applications**

- 5.1 The Site was the subject of three previous applications (No. A/YL-TYST/275, 277 and 771) for temporary warehouse and/or open storage uses covering different extents of the Site. Details of the applications are summarised in **Appendix II** and the boundaries of the sites are shown on **Plan A-1b**.
- 5.2 Application No. A/YL-TYST/275 for temporary open storage of motorcycle components and application No. A/YL-TYST/277 for temporary open storage of air conditioner components were both rejected by the Committee on 28.1.2005, mainly on the considerations that the development did not comply with the then TPB PG-No.13 and there was insufficient information in the submission to demonstrate that the development would not generate adverse environmental, drainage and landscape impacts.
- 5.3 The last application (No. A/YL-TYST/771) for temporary warehouse and open storage of construction materials submitted by a different applicant was approved with conditions for a period of 3 years by the Committee on 18.3.2016, mainly on the considerations that the proposal was generally in line with the planning intention of the “U” zone and TPB PG-No.13E; the development was generally not incompatible with the surrounding areas; and departmental concerns could be addressed by imposing approval conditions. All the approval conditions had been complied with and the planning permission had lapsed on 19.3.2019.
- 5.4 Compared with the last application, the current application is submitted by a different applicant for a similar warehouse use without open storage component and with a similar site layout and development parameters on a larger site.

#### **6. Similar Applications**

- 6.1 A total of 52 similar applications for various temporary warehouse/storage with or without open storage and/or ancillary site office uses in this part of the “U” zone had been considered by the Committee since the promulgation of TPB PG-No. 13E on 17.10.2008. Details of the applications are summarised in **Appendix III** and the locations of the sites are shown on **Plan A-1a**.
- 6.2 All 52 applications were approved mainly on similar considerations that they were generally in line with TPB PG-No.13E (for cases involving open storage use); the developments were not incompatible with the surrounding open storage/warehouse uses; and departmental concerns could be addressed by imposing relevant approval conditions. However, amongst these approved applications, 13 were revoked due to non-compliance with approval conditions.
- 6.3 For Members’ information, application No. A/YL-TYST/992 for renewal of planning approval for temporary warehouse for storage of vehicles and spare parts with ancillary site office for a period of 3 years within the same “U” zone on the OZP will also be considered at this meeting (**Plan A-1a**).

## **7. The Site and Its Surrounding Areas (Plans A-1a to A-4b)**

### 7.1 The Site is:

- (a) accessible via a local track leading from Kung Um Road to its east (**Drawing A-1, Plans A-2 and A-3**);
- (b) paved and fenced off; and
- (c) currently occupied by the applied use without valid planning permission.

### 7.2 The surrounding areas have the following characteristics (**Plan A-2**):

- (a) comprise predominately warehouses and open storage/storage yards intermixed with a vehicle repair workshop, scattered residential structures, chicken sheds, shrubland, a pond, agricultural land and vacant land/structures;
- (b) there are residential structures in the vicinity with the nearest one located about 20m to its northeast (**Plan A-2**); and
- (c) except for an open storage yard to the southeast of the Site, the other warehouses, open storage/storage yards, vehicle repair workshop and chicken sheds in the vicinity are suspected unauthorised developments (UD) subject to enforcement action taken by the Planning Authority.

## **8. Planning Intention**

The planning intention of the “U” zone is to cater for the continuing demand for open storage, which cannot be accommodated in conventional godown premises. However, Kung Um Road is insufficient to cater for the heavy goods vehicular traffic generated from the proposed development. The area is therefore zoned “U” pending further detailed studies on the infrastructural impacts and the preparation of detailed layout plan.

## **9. Comments from Relevant Government Departments**

9.1 The following government departments have been consulted and their views on the application are summarised as follows:

### **Land Administration**

9.1.1 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):

- (a) The Site comprises Old Schedule Agricultural Lots held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government.
- (b) Within the Site, Lots 1488 S.A, 1488 RP and 1489 in D.D. 119 are covered by Short Term Waivers (STW) No. 4675, 4676 and 4677 respectively to permit structures erected thereon for the

purpose of “Temporary Warehouse and Open Storage of Escalator Parts and Construction Materials”.

- (c) The Site is accessible from Kung Um Road via Government land (GL) and private land. Her office does not provide maintenance work for GL involved and does not guarantee any right-of-way over the GL to the Site.
- (d) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (e) Should planning approval be given to the subject planning application, the STW holder(s) will need to apply to her office for modification of the STW conditions where appropriate and the lot owner(s) of the lot(s) without STW will need to apply to her office to permit the structures to be erected or regularise any irregularities on site, if any. Besides, given the proposed use is temporary in nature, only application for regularisation or erection of temporary structure(s) will be considered. No construction of New Territories Exempted Building(s) will be considered or allowed. Applications for any of the above will be considered by her department acting in the capacity of the landlord or lessor at its sole discretion and there is no guarantee that such application will be approved. If such application is approved, it will be subject to such terms and conditions, including among others the payment of premium or fee, as may be imposed by her department.

### **Traffic**

#### 9.1.2 Comments of the Commissioner for Transport (C for T):

- (a) The land status of the access road/path/track leading to the Site from Kung Um Road shall be checked with the lands authority.
- (b) The management and maintenance responsibilities of the access road/path/track shall be clarified and consulted with the relevant management and maintenance authorities accordingly.
- (c) The applicant is reminded that sufficient space should be provided within the Site for manoeuvring of vehicles. In addition, no parking, queuing and reverse movement of vehicles on public road are allowed.

#### 9.1.3 Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD):

- (a) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads/drains.
- (b) His department shall not be responsible for the maintenance of any access connecting the Site and Kung Um Road.

## **Environment**

### 9.1.4 Comments of the Director of Environmental Protection (DEP):

- (a) DEP does not support the application as there are sensitive receivers of residential use in the vicinity (with the nearest one situated about 20m to the northeast of the Site) (**Plan A-2**) and the applied use will cause traffic of heavy vehicles; environmental nuisance is expected.
- (b) There was no substantiated environmental complaint concerning the Site received in the past three years.
- (c) Should the planning application be approved, the applicant should be advised to follow the relevant mitigation measures and requirements in the latest Code of Practice to minimise any potential environmental nuisances.

## **Drainage**

### 9.1.5 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):

- (a) He has no objection in principle to the development from the public drainage point of view.
- (b) Should the Board consider that the application is acceptable from the planning point of view, approval conditions requiring the submission of a drainage proposal and the implementation and maintenance of the drainage proposal for the development to the satisfaction of the Director of Drainage Services or of the Board should be stipulated.

## **Fire Safety**

### 9.1.6 Comments of the Director of Fire Services (D of FS):

- (a) He has no objection in principle to the proposal subject to fire service installations (FSIs) being provided to his satisfaction.
- (b) In consideration of the design/nature of the proposal, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. In addition, the applicant should be advised on the following points:
  - (i) The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy.
  - (ii) The location of where the proposed FSIs to be installed should be clearly marked on the layout plans.
- (c) However, the applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance

(BO) (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

### **Building Matters**

9.1.7 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):

- (a) As there is no record of approval granted by the Building Authority (BA) for the existing structures at the Site, he is not in a position to offer comments on their suitability for the use proposed in the application.
- (b) The applicant's attention is drawn to the following points:
  - (i) If the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of the BA, they are unauthorised building works (UBW) under the BO and should not be designated for any proposed use under the application.
  - (ii) For UBW erected on leased land, enforcement action may be taken by the BD to effect their removal in accordance with BD's enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under the BO.
  - (iii) Before any new building works (including containers/open sheds as temporary buildings, demolition and land filling) are to be carried out on the Site, prior approval and consent of the BA should be obtained, otherwise they are UBW. An Authorised Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
  - (iv) The Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the Building (Planning) Regulations (B(P)R) respectively.
  - (v) The Site does not abut on a specified street of not less than 4.5m wide and its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage.

### **Others**

9.1.8 Comments of the Chief Engineer/Cross-Boundary Infrastructure and Development, Planning Department (CE/CID, PlanD):



- (a) The Civil Engineering and Development Department (CEDD) and PlanD jointly commissioned the “Planning and Engineering Study for Housing Sites in Yuen Long South (YLS) – Investigation”. According to the Recommended Outline Development Plan (RODP) of YLS promulgated on 8.8.2017, the Site falls within areas zoned as “Special Residential - Public Rental Housing (with Commercial)” (“RSc”) and “District Open Space” (“DO”).
- (b) The objective of YLS is to transform the degraded rural land predominantly occupied by brownfield operations including open storage yards, warehouses and rural industrial uses into housing and other uses with supporting infrastructure and community facilities, and to improve the existing environment. It is noted that the application is for temporary use for a period of 3 years. In considering the application for temporary uses, due consideration should be given on the possible implication on land clearance which would affect the future implementation of YLS.

9.1.9 Comments of Project Manager (West), CEDD (PM(W), CEDD):

- (a) He has no objection to the subject application.
- (b) However, the Site falls within the boundary of the proposed YLS Development – Stage 2. The land resumption and clearance programme of the project is subject to Executive Council’s authorisation on land resumption and Finance Committee’s funding approval of the project. Land clearance operation is tentatively targeted to commence in 2024. Thus, the applicant shall be advised not to carry out any substantial works in view of the planned YLS development – Stage 2.

**District Officer’s Comments**

9.1.10 Comments of the District Officer (Yuen Long), Home Affairs Department (DO(YL), HAD):

Her office has not received any comment from the village representatives in the vicinity regarding the application.

9.2 The following government departments have no comment on the application:

- (a) Director of Agriculture, Fisheries and Conservation (DAFC);
- (b) Director of Electrical and Mechanical Services (DEMS);
- (c) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);  
and
- (d) Commissioner of Police (C of P).

## **10. Public Comment Received During the Statutory Publication Period**

On 11.10.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 1.11.2019, no public comment was received.

## **11. Planning Considerations and Assessments**

- 11.1 The subject application is for temporary warehouse for storage of electronic goods for a period of 3 years at a site zoned “U” on the OZP. The applied use is not in conflict with the planning intention of the “U” zone which is generally intended for open storage use but is designated with this zoning mainly due to concerns of the capacity of Kung Um Road. In this regard, C for T has no adverse comment on the application. Whilst the Site falls within an area zoned “RSc” and “DO” on the RODP of YLS promulgated on 8.8.2017, CE/CID, PlanD does not raise objection to the application and PM(W), CEDD has no objection to the proposed temporary use for 3 years. Approval of the application on a temporary basis of 3 years would not jeopardise the long-term development of the area.
- 11.2 The surrounding areas comprise mainly warehouses and open storage/storage yards (**Plan A-2**). Although there are residential structures nearby, with the nearest residence located about 20m to the northeast of the Site, the development is generally not incompatible with the surrounding uses in the subject “U” zone.
- 11.3 There is no adverse comment on the application from concerned government departments, except DEP. DEP does not support the application as there are sensitive receivers of residential use in the vicinity of the Site (with the nearest one located about 20m to its northeast) (**Plan A-2**), and the applied use will cause traffic of heavy vehicles; environmental nuisance is expected. However, there has been no environmental complaint concerning the Site received in the past 3 years. Furthermore, relevant approval conditions are recommended in paragraph 12.2 below to minimise any potential environmental nuisances or to address the technical requirements of other concerned government departments. Any non-compliance with the approval conditions will result in revocation of the planning permission and UD on the Site will be subject to enforcement action by the Planning Authority. Should the planning application be approved, the applicant will also be advised to follow the latest Code of Practice to minimise any potential environmental impact on the surrounding area.
- 11.4 Given that one previous approval for similar warehouse use has been granted to the Site and 52 similar applications have been approved in this part of the “U” zone since the promulgation of TPB PG-No. 13E, approval of the current application is in line with the Committee’s previous decisions. There were two previous applications rejected mainly on the grounds, amongst others, that there was insufficient information in the submission to demonstrate that the development would not generate adverse environmental impacts. For the issue on environmental impact, the assessment in paragraph 11.3 above is relevant.
- 11.5 There is no public comment received on the application during the statutory publication period.

## 12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11, the Planning Department considers that the temporary warehouse for storage of electronic goods could be tolerated for a period of 3 years.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of 3 years until 29.11.2022. The following conditions of approval and advisory clauses are also suggested for Members' reference:

### Approval conditions

- (a) no operation between 6:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation on Sundays and public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) no open storage, repairing, cleaning, dismantling, other workshop activities and handling/storage of cathode-ray tubes and electronic waste, as proposed by the applicant, shall be carried out on the Site at any time during the planning approval period;
- (d) no heavy goods vehicles exceeding 24 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance are allowed to be parked/stored on or enter/exit the Site, as proposed by the applicant, at any time during the planning approval period;
- (e) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (f) all existing trees within the Site shall be maintained at all times, as proposed by the applicant, during the planning approval period;
- (g) the existing boundary fencing on the Site shall be maintained at all times during the planning approval period;
- (h) the submission of a drainage proposal within **6** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 29.5.2020;
- (i) in relation to (h) above, the implementation of the drainage proposal within **9** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 29.8.2020;
- (j) in relation to (i) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (k) the submission of a fire service installations proposal within **6** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 29.5.2020;

- (l) in relation to (k) above, the implementation of the fire service installations proposal within **9** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 29.8.2020;
- (m) if any of the above planning conditions (a), (b), (c), (d), (e), (f), (g) or (j) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice; and
- (n) if any of the above planning conditions (h), (i), (k) or (l) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice.

Advisory clauses

The recommended advisory clauses are at **Appendix IV**.

12.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Member's reference:

the applicant fails to demonstrate that the development would not generate adverse environmental impact on the surrounding areas.

**13. Decision Sought**

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 13.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.
- 13.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

**14. Attachments**

<b>Appendix I</b>	Application Form received on 3.10.2019
<b>Appendix Ia</b>	Supplementary Planning Statement
<b>Appendix Ib</b>	FI dated 19.11.2019 clarifying the proposed operation
<b>Appendix II</b>	Previous Applications covering the Site
<b>Appendix III</b>	Similar Applications in this Part of the "U" Zone on the OZP since the Promulgation of TPB PG-No. 13E
<b>Appendix IV</b>	Recommended Advisory Clauses
<b>Drawing A-1</b>	Vehicular Access Plan
<b>Drawing A-2</b>	Site Layout Plan

<b>Drawing A-3</b>	Tree Preservation Proposal
<b>Plan A-1a</b>	Location Plan with Similar Applications
<b>Plan A-1b</b>	Previous Applications Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4a and A-4b</b>	Site Photos

**PLANNING DEPARTMENT  
NOVEMBER 2019**